

IN THE COURT OF APPEALS  
AT KNOXVILLE

**FILED**  
January 26, 2000  
Cecil Crowson, Jr.  
Appellate Court Clerk

ESTATE OF GROVER PEMBERTON	)	SCOTT COUNTY
BY EXECUTOR BROMMA PEMBERTON,	)	E1999-01308-COA-R3-CV
and INDUSTRIAL LOGGING, A sole	)	
proprietorship of Sharon Lay	)	
	)	
Plaintiffs-Appellees	)	
	)	
v.	)	HON. BILLY JOE WHITE,
	)	CHANCELLOR
	)	
MABEL PENNINGTON and	)	
GEORGE PENNINGTON	)	
	)	
Defendants-Appellants	)	

HAROLD G. JEFFERS OF ONEIDA FOR APPELLANTS

MARK BLAKLEY OF HUNTSVILLE FOR APPELLEES

OPINION ON PETITION TO REHEAR

Goddard, P.J.

The Penningtons filed a petition to rehear which takes issue with the following statement contained in our original opinion: "The parties stipulated that Bromma Pemberton and her predecessors in title paid property taxes on the disputed

property for more than 20 years." The parties' stipulation provides:

Plaintiff Bromma Pemberton and defendants and their predecessors in title have, for a period exceeding twenty (20) consecutive years, paid real property taxes assessed to them with respect to the above-described parcels of property, said payments being made according to the tax notices received by the parties, the warranty deed references noted on their respective notices, and on the applicable tax maps to the extent that the payors may have relied on such maps.

The Penningtons argue that their stipulation did not state that the Pembertons paid taxes on the disputed property for 20 years. According to the Penningtons, the stipulation only stated that the Pembertons paid the taxes assessed to them. The tax maps in this case did not accurately reflect the property boundary between the Pennington tract and the Pemberton tract. The Penningtons and the Pembertons both paid taxes on the property assessed to them, which included part of the disputed property in each tax map. Accordingly, the Penningtons did stipulate that the Pembertons paid taxes on a portion of the disputed property. The pertinent language in the statute that applies to this case is: "the same having been subject to assessment for state and county taxes." Tenn. Code Ann. § 28-2-110(a) (1998). Because the Pembertons paid the taxes assessed to them, they are not barred from suing for the entire disputed property which was subject to assessment.

Accordingly, the petition to rehear is denied. Costs incident to this petition to rehear are adjudged against the Penningtons.

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Houston M. Goddard, P.J.

CONCUR:

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Herschel P. Franks, J.

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D. Michael Swiney, J.